

AKIN GUMP
STRAUSS HAUER & FELD LLP

Attorneys at Law

STEVE ROSS

202.887.4343/fax: 202.887.4288

sross@akingump.com

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VIA FACSIMILE

Jeff S. Jordan
Supervisory Attorney
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: MUR 5440

Dear Mr. Jordan:

A complaint filed by the Republican National Committee and Bush-Cheney '04, Inc. requests that the Commission impose significant civil and criminal penalties on individuals, including George Soros, who have financially supported one or more of the named non-profit organizations. However, the complaint simply fails, by any standard, to articulate the basis on which financial support by these individuals violate the law. That is not surprising since no such standard exists.

In addition, the complaint suggests that the organizations themselves have committed numerous violations, including improper solicitations and advertisements, illicit coordination with a campaign stemming from the identity and motivation of their employees, and the use of inappropriate allocation formulas. Without regard to the merit of these allegations, the complainants have not, and cannot, claim that donors are responsible for the ultimate use of their donations.

The absence of any statutory or regulatory basis to contend that a donation exceeded any applicable limit was underscored by the Commission's decision, earlier this month, to forgo the adoption of regulations that could have brought certain non-registered organizations within the Commission's jurisdiction. The proposed regulations enumerated circumstances that would have required certain organizations to register as federal political committees, thus subjecting such organizations to, among other things, limitations on individual contributions. The Commission ultimately postponed a final decision on the adoption of the proposed regulations.

The complaint relies on media reports concerning the motivations and actions of donors and individuals associated with the various named organizations. Many of these same media sources

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May 26, 2004

Page 2

now report that individuals historically and presently affiliated with the complainants are currently engaged in the formation and operation of organizations designed to engage in the very same conduct alleged in the complaint and are soliciting donations from individuals to support those activities.

Ultimately, there are many compelling reasons why this complaint should be dismissed as it relates to individual donors. The complaint is devoid of any arguable basis to contend that George Soros or any other donor knowingly engaged in conduct in violation of the law. Perhaps more importantly, the Commission should bear in mind that the questioning of a donor's motivation is not something that the Government has not undertaken lightly, and the Commission should not do so here. As a threshold matter, the notion that the Government would, under these circumstances, punish American citizens--up to and including imprisonment--for making a donation to a non-profit organization is so replete with constitutional concerns that it should be rejected outright.

The Republican National Committee and Bush-Cheney '04 had originally asked the Commission to promptly dismiss their own complaint. Given what has transpired, it would appear to be more appropriate for the complaint to be withdrawn. In the absence of the withdrawal or dismissal of the complaint, respondents should be given additional time to fully reply to the Commission's letter seeking factual or legal materials relevant to the Commission's analysis of this matter. The Commission is presently considering the promulgation of regulations relevant to the operation of organizations such as those described in the complaint. It would be appropriate that respondents be given until thirty days after the promulgation of the regulations to submit relevant material to the Commission.

We respectfully request that the Commission dismiss the complaint or postpone further action until the completion of the regulatory process. Should the Commission pursue further proceedings against George Soros and other donors pursuant to this complaint, we would anticipate submitting extensive arguments addressing the constitutional, statutory, regulatory and factual deficiencies of the complaint. It is not appropriate for either the Commission or individual donors to be burdened in such a fashion in the face of a complaint that, as later events have amply demonstrated, is unsound and of suspect motivation.

Sincerely,



Steven R. Ross
Counsel to George Soros

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